

REMARKS

Reconsideration of this application is respectfully requested. Claims 1-24 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 09/650,218. Claims 1-4, 7, 11, 12, 13-16, 19, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Puchek et al. U.S. Patent No. 6,496,595 (hereinafter Puchek) in view of Gravlin U.S. Patent No. 6,353,853 (hereinafter Gravlin). Claims 5, 6, 8-10, 17, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puchek in view of Gravlin and further in view of Daigneault et al. U.S. Pub. No. US20020029349 (hereinafter Daigneault).

Claims 1, 5, 12-13, 16, and 22-24 have been amended.

The Examiner rejects Claims 1-24 as not being patentably distinct over claims 1-10 of U.S. Patent No. 09/650,218. The Examiner states "Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming method for providing security for an Internet co-location facility and the method is the same with a little more detail on the environment for which it is applied." Accordingly, applicants file a terminal disclaimer under 37 C.F.R. § 1.321 (c) to overcome the above rejection.

The Examiner rejects Claims 1-4, 7, 11, 12, 13-16, 19, 23, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Puchek in view of Gravlin. The Examiner rejects Claims 5, 6, 8-10, 17, 18, and 20-22.

Puchek qualifies as prior art only under 35 U.S.C. § 102(e) because its filing date of May 19, 2000 is 3 months earlier than Applicant's filing date. In light of the

Examiner's determination that the claims in this application are not patentably distinct from its parent application U.S. patent application no. 09/650,218, applicants submit herewith an affidavit under 37 C.F.R. § 1.131 that the invention as claimed in claims 1-24 was reduced to practice prior to the May 19, 2000 filing date of Puchek. Claims 1-24 effectively have the same filing date as the parent application. The affidavit established a conception date of at least as early as May 4, 2000 with a consistent reduction to practice until the application was filed in August of 2000. Therefore, Puchek is not available as prior art under 35 U.S.C. § 102(e), and Applicant accordingly requests that Puchek be removed from consideration. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 1-24 under 35 U.S.C. § 103(a).


Conclusion

It is respectfully submitted that in view of the amendments and remarks set forth herein, the rejections and objections have been overcome. A petition for an extension of time is submitted with this amendment. Applicants reserve all rights with respect to the application of the doctrine equivalents. If there are any additional charges, please charge them to our Deposit Account No. 02-2666. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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